Fundamentals of Parliamentary Procedure

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Why is it important to learn parliamentary procedure?

At a basic level, parliamentary procedure provides the tools for effective group action and a framework within which a group can consider issues and resolve disputes.

Rules help create policy in an open and efficient manner, while protecting and balancing the rights of:

- Individual members,
- The minority,
- The majority,
- The whole body, or
- People and parties affected by the body's decision.

"If I let you write the substance and you let me write the procedure, I'll [beat] you every time."

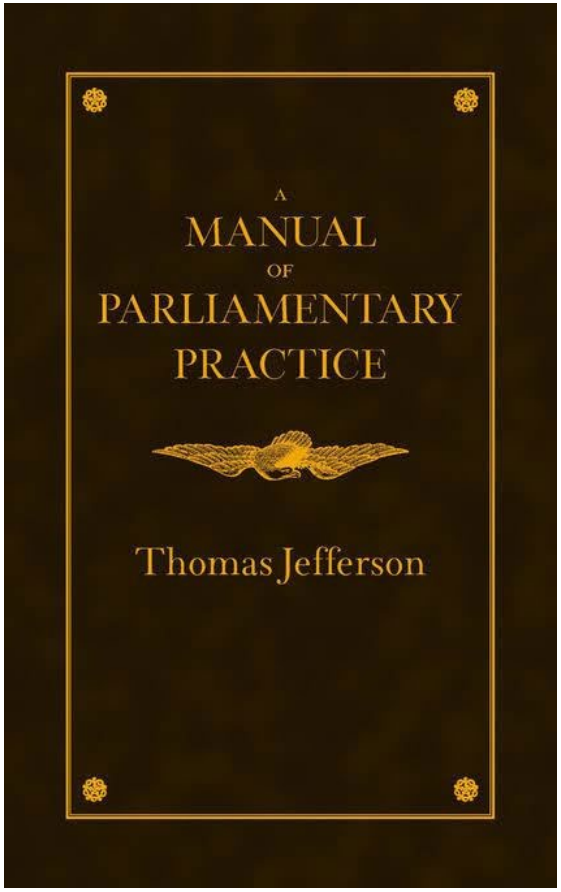
Former Rep. John Dingell (D-MI)

History of Parliamentary Procedure

- Greeks and Romans
- Pope Urban II (1089) – *parliamentum*
- In England (1237)
  - The Modus Tenendi Parliamentum (1321) delineated the first rules and procedures of Parliament.*
  - By the end of the 17th century the broad principles of parliamentary procedure were fairly well settled.
- John Hatsell's Precedents of Proceedings in the House of Commons (1776)

*published 1572

Other Parliamentary Authorities

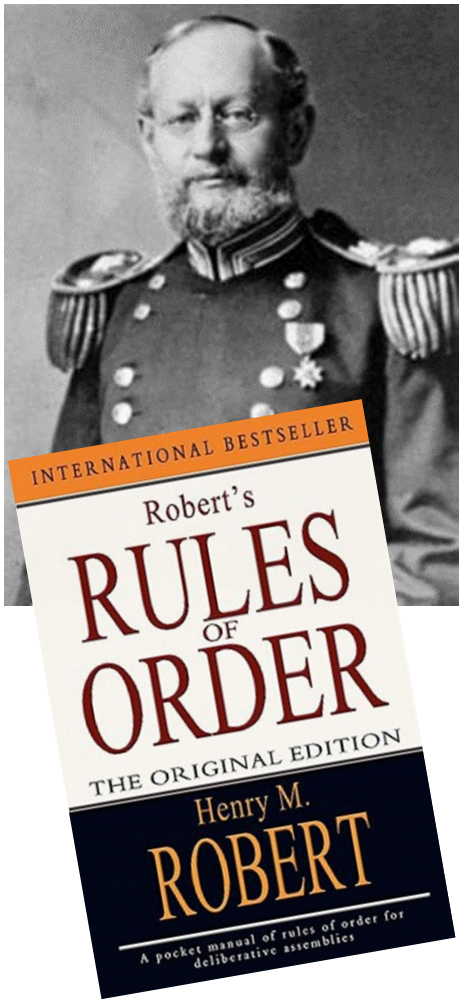


- *A Manual of Parliamentary Procedure* (Feb 27, 1801) and

  Jefferson's Parliamentary Pocket Book – 588 distinct paragraphs (rules) published in 1988.

- Luther S. Cushing's *Rules of Proceeding and Debate of Deliberative Assemblies* (1845)

Supplementary Parliamentary Authorities



Henry Martyn Robert (1837-1923)

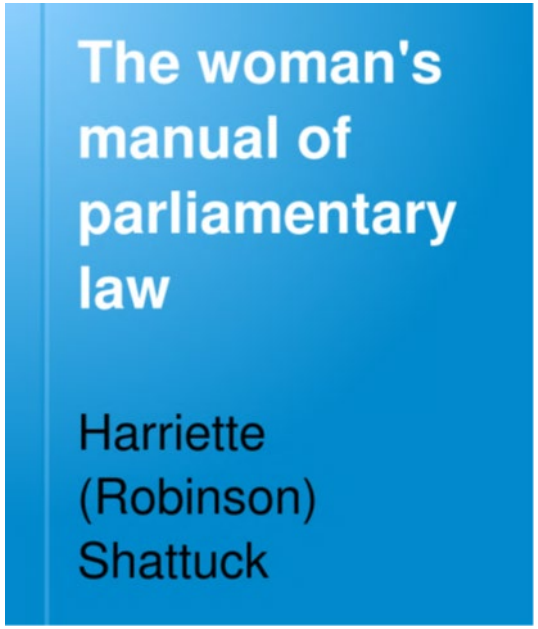
- West Point graduate 1857
- Colonel, US Army (Engineer)
- Buried in Arlington National Cemetery

15-page pamphlet published at Headquarters, Military Division of the Pacific in 1869

Published *Pocket Manual of Rules of Order for Deliberative Assemblies* in 1876

12th Revision of "Robert's *Rules of Order, Newly Revised (RONR) published in 2020*

The Woman's Manual of Parliamentary Law (1894)

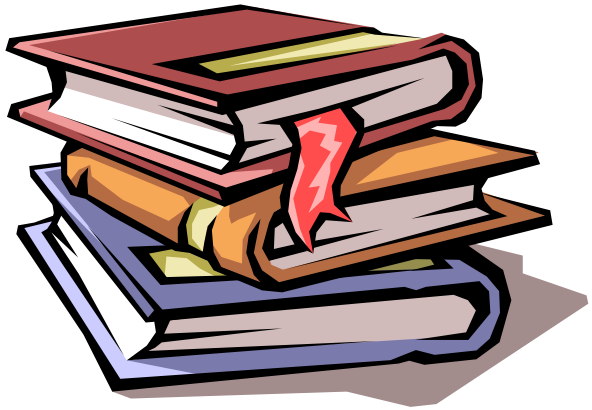


"There are at present a great many women, perfectly well fitted, so far as intelligence and interest go, to share in the deliberations of any assembly, but who, through lack of knowing the technique of parliamentary law, are kept from taking active part in the many meetings that they constantly attend. ...

Eager as listeners, wishing they dared to speak, reproaching themselves afterward for not speaking, they need only the confidence which comes from "knowing how," in order to become active, vital forces. They want to know when to rise and when to sit, how to begin to speak and how to close, how to frame a motion or a remark, how to open and close a meeting, how to meet an adverse motion, -all the minute details of presiding, of debating, of making motions, of conducting meetings. ...

This book, therefore, is written for women; for use in their clubs, unions, societies, - any organizations where it is important to know how to conduct a formal meeting."

Other Parliamentary Authorities

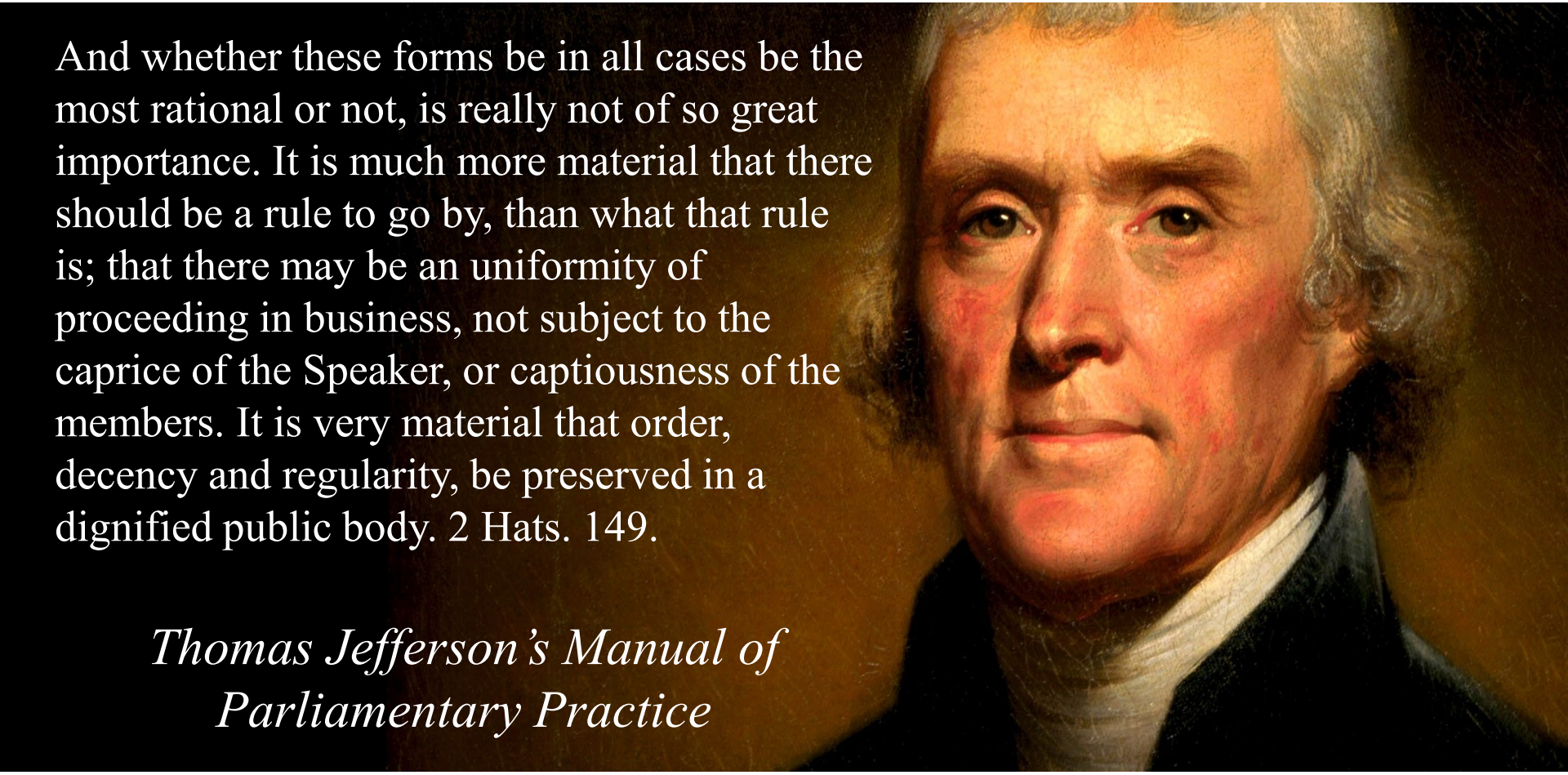


- *Reed's Parliamentary Rules A Manual of General Parliamentary Law* (Feb. 1890) by Thomas Brackett Reed Speaker of the U.S. House of Representatives 1889-1891 and 1895-1899
- *Hinds' and Cannon's Precedents of the House of Representatives of the United States* (11 volumes + 3 volumes in indexes, 1936
- Mason's Manual (1935)
- Alice F. Strugis' *Standard Code of Parliamentary Procedure* (1951) 268 pages– direct challenge to Roberts

Other Parliamentary Authorities

- Ray E. Keesey *Modern Parliamentary Procedure* (1974) – 190 pages
- Howard L. Olecks *Non-profit Corporations Organizations and Associations (3d edition,* 1974), Chapter 43 "Parliamentary Procedure: Origin and Development" and Chapter 44 "Parliamentary Procedure Becomes Law"
- *How to Make Meetings Work (1976)*, by Michael Doyle and Thomas Strauss, 301 pages copyright 1976
- *Managing Corporate Meetings: A Legal and Procedural Guide (1977),* by George S Hills of Harvard Law School

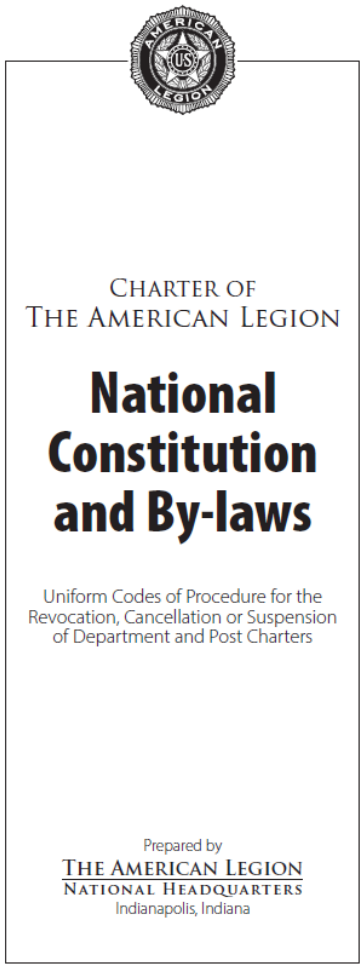
AMERICAN LEGION



And whether these forms be in all cases be the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by, than what that rule is; that there may be an uniformity of proceeding in business, not subject to the caprice of the Speaker, or captiousness of the members. It is very material that order, decency and regularity, be preserved in a dignified public body. 2 Hats. 149.

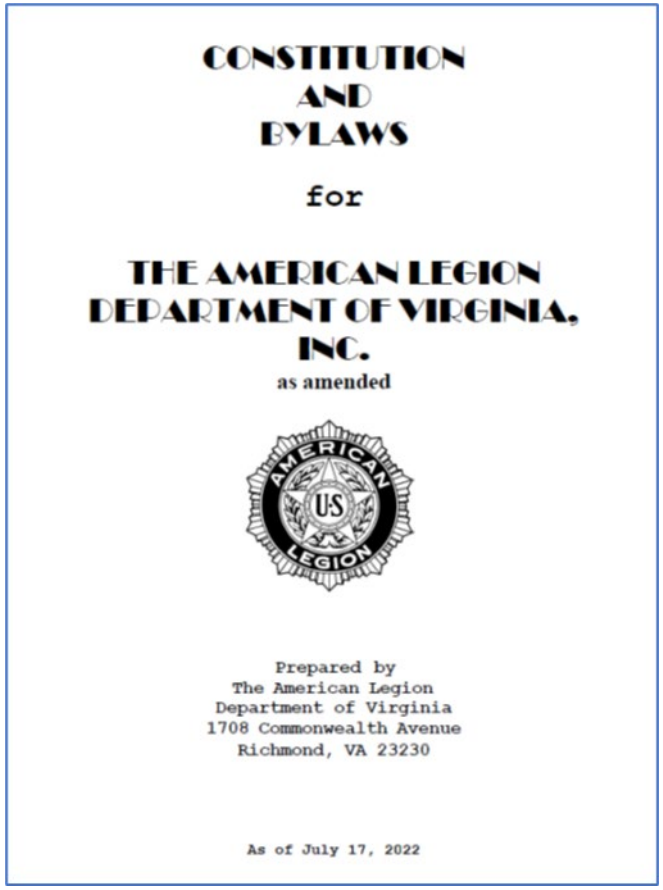
Thomas Jefferson's Manual of Parliamentary Practice

Essential Parliamentary Tools



- Statute
- Constitution and Bylaws
  - National
  - Department
  - Post
- Resolutions
  - National
  - Department
  - Post

Hierarchy of Parliamentary Authority



CONSTITUTION
AND
BYLAWS

for

THE AMERICAN LEGION
DEPARTMENT OF VIRGINIA,
INC.
as amended

Prepared by
The American Legion
Department of Virginia
1708 Commonwealth Avenue
Richmond, VA 23230

As of July 17, 2022

1) Constitutional and Statutory provisions and judicial decisions thereon.
2) Adopted rules (Bylaws)
3) Custom, usage and precedents.
4) Adopted supplemental parliamentary authority.
5) General parliamentary procedure.

Unwritten Rules

Thomas Jefferson's letter to George Wythe in February 1800

"So minute indeed & belong so much to every day's practice that they have never been thought worthy of being written down."

Paul Mason, "In the absence of a written rule, we rely on past practices to govern."

<u>Established & Consistent</u>

Parliamentary Procedure is NOT an exact science.

Presiding officers render decisions and make judgements based on a set of rules and procedures.

Can and will vary from state to state, presiding officer to presiding officer, and chairman to chairman.

Every presiding officer is different and may interpret the rules and procedures differently.

Parliamentary Procedure Is Like Baseball

Umpire A

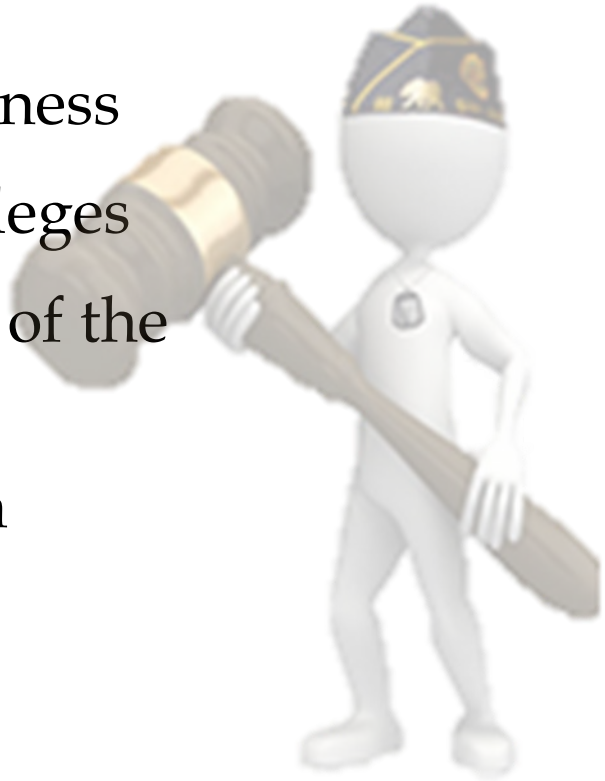
and

Umpire B

Same rules but different strike zones

Fundamentals of Parliamentary Procedure

- Maintain Decorum
- Facilitate Orderly Transaction of Business
- Members have equal rights and privileges
- Rights of the Majority to Rule; Rights of the Minority to participate
- Everything is subject to free and open debate
- Only one question at a time can be considered at any given time



Parliamentary Procedure: The Basics

10 Basic Principles of Parliamentary Procedures

Parliamentary procedure is reasonably logical and simple when you understand the concepts or purposes behind it. Think of it in terms of principles that impose order, openness and fairness rather than rigid, detailed technical rules.

1. The group must have the authority to take the actions it purports to take.
2. A meeting of the decision-making group must take place.
3. A proper notice of the meeting must be given to all members of the group.
4. A quorum must be present at the meeting.
5. A question must be before the group upon which it can make a decision.
6. An opportunity to debate the question must be allowed.
7. The question must be decided by taking a vote.
8. A majority vote to take an action or decide a question must occur.
9. No fraud, trickery or deception resulting in injury to any member must occur.
10. To be valid, any action or decision of a body must not violate any applicable law or constitutional provision.

What is decorum?

"Decorum" is defined as "proper order, etiquette and conduct of members."

Proper decorum creates an atmosphere that is appropriately formal. It encourages order, which, in turn, places focus upon the issues discussed, not upon the person speaking.

Decorum is often encouraged and preserved by:

- Requiring the use of appropriate language
- Creating and enforcing a dress code.
- Restricting food and beverages on the floor.
- Controlling the use of cell phones and other electronic devices
- Establishing other rules and customs of behavior.

The Quorum

A quorum is that number of people whose presence is necessary to transact business and to make actions taken legally valid. If the number is not specified, a quorum usually is a majority of the membership. In determining a quorum, those who are not qualified members of the body at that time are not counted.

Any member may raise the doubt that a quorum is present. This should not be done capriciously or obstructively. It should be fairly apparent that a quorum is not present.

If it is determined that a quorum is not present, all business stops; no business can be transacted, except certain procedural actions:

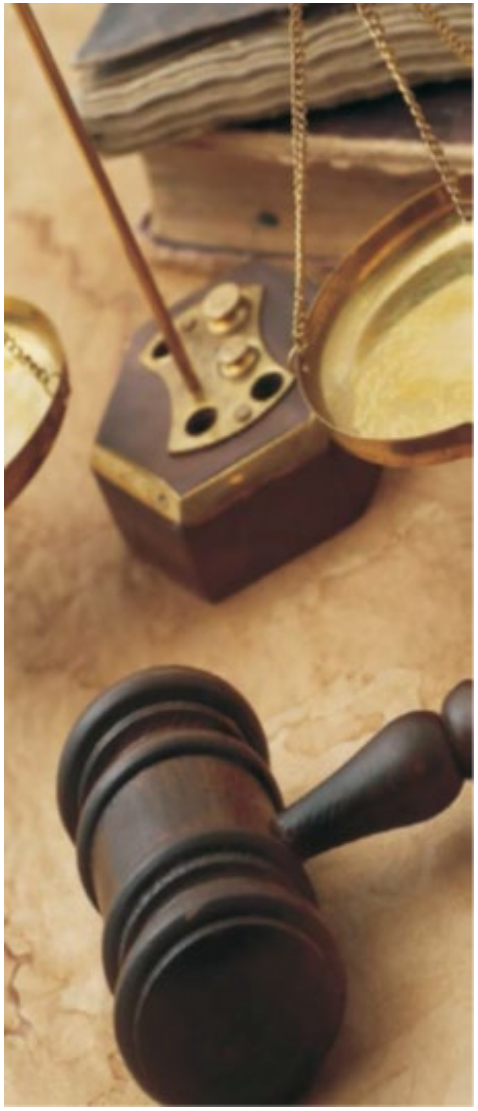
- Set an adjourned (continued) meeting;
- Adjourn;
- Recess; or
- Take measures to procure a quorum.

The order of business

The order of business is the defined sequence of business to be considered for each day that a legislative body meets. Each chamber decides what comprises its order of business. Floor proceedings of deliberative bodies can be divided into three parts:

- The opening—call to order, presentation of colors, invocation, pledge of allegiance and POW/MIA.
- The business— Officer reports, communications, standing or special subcommittee reports, unfinished business, new business
- The closing—announcements and adjournment.

Motion(s)



All business requiring action is introduced by a motion, or resolution

Member “obtains the floor” by being recognized by the Chair

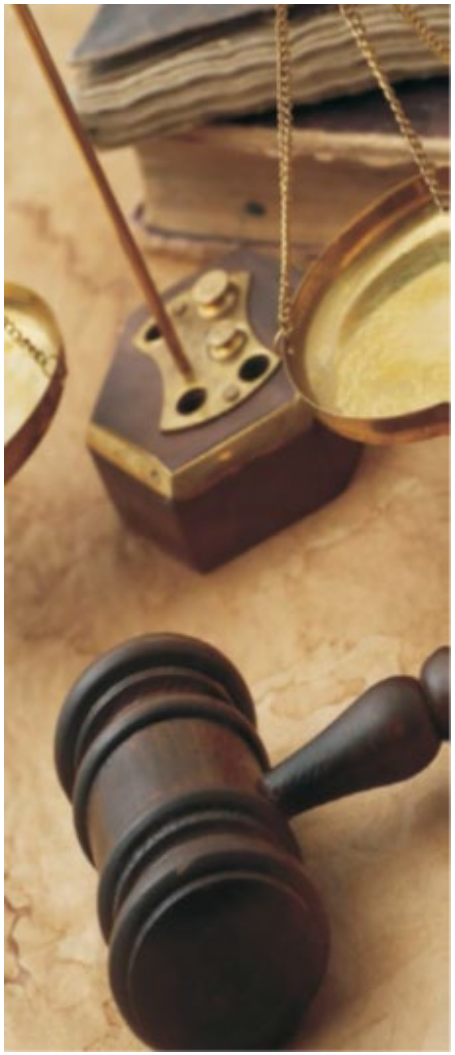
Member proposes a motion (Must be answerable as a Yes/No question) – “ I move that....”

Another member seconds the motion.

Subcommittee reports

If no second, meeting proceeds to other business with no further discussion on that subject

Debate

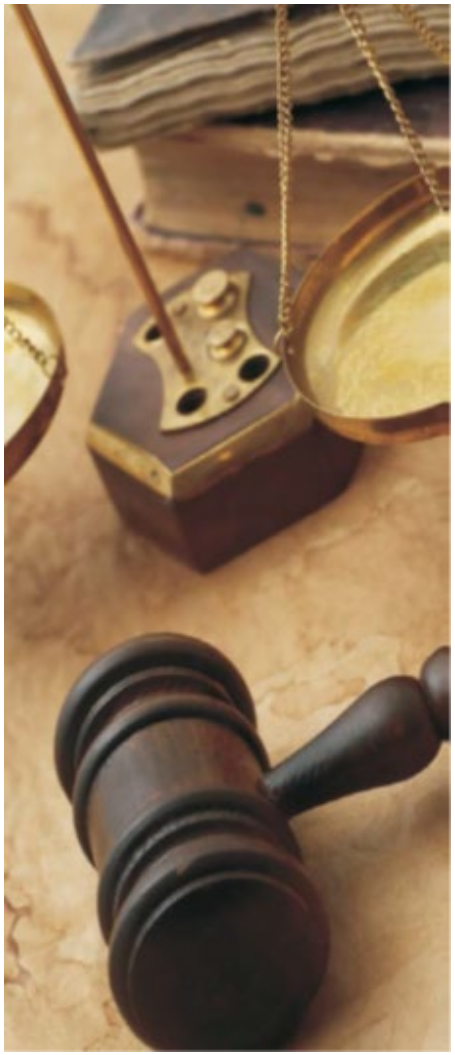


Debate is required to ascertain the collective judgment of a body about a pending question or proposal.

Strictly speaking, “debate” means remarks made on opposite sides of a question. In a more general sense, it includes all discussion on a substantive question before the body, even if all remarks are on one side. Debate may commence only when a motion is properly before the body.

There may be times when debate is not allowed. Certain motions are not open to discussion, i.e. they are non-debatable.

Debate (2)



Members may speak to the motion only after being recognized by the Chair

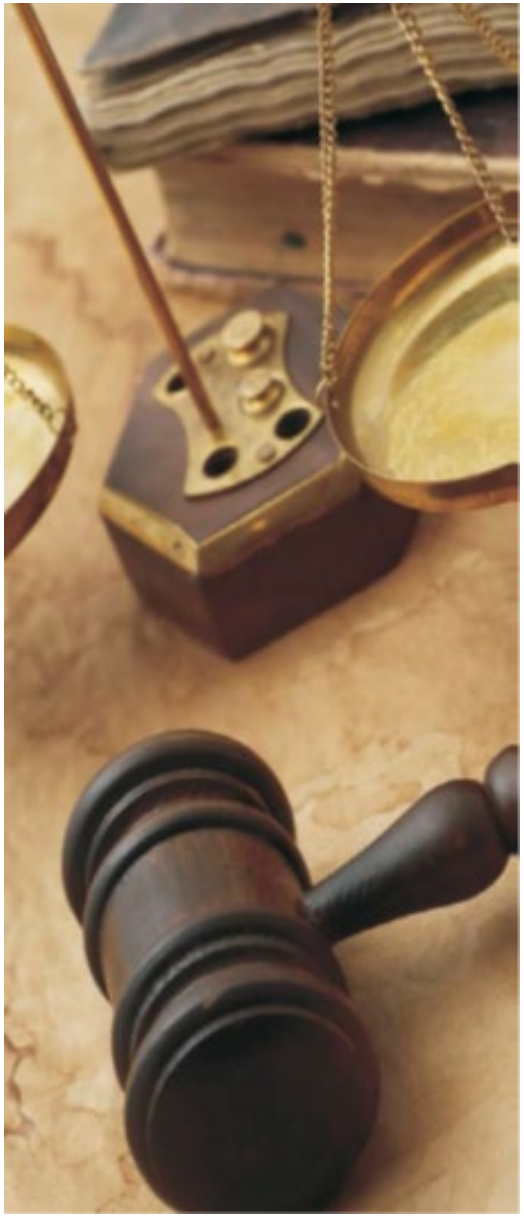
Chair should recognize speakers both for and against;

Speaking order determined by the chair

All comments addressed to the group, not individuals

Limitations (default); Can speak twice during debate on a motion, for up to 10 minutes each time.

Debate ends on its own (implicitly) or explicitly (via a 2/3 vote)



Calling the Question

If someone says “Call the question” what they really want to do is stop discussion (“I move the previous question”)

Out of order unless recognized and given the floor first

2/3 vote needed to stop discussion
Then vote on the motion

The Vote

A “vote” is the formal expression of the will of or decision by the body. When a vote is taken, generally one side wins and one side loses. The winning side—whether that side voted in the affirmative or negative—is called the prevailing side.

What happens if there is no winning side because the vote is tied?

The Vote

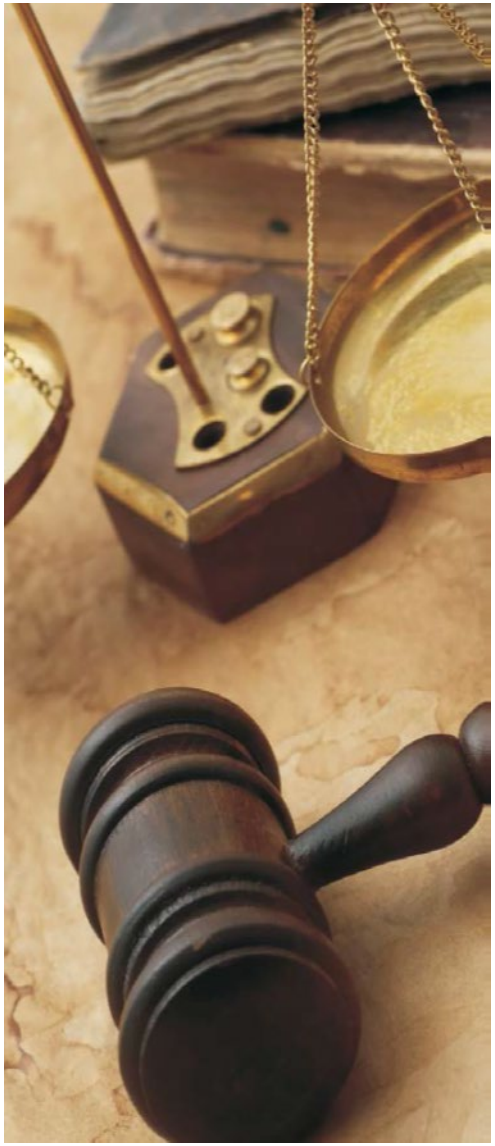
Chair repeats the motion, clarifying intent and adjusting wording, as necessary.

Standing rules often dictate type of vote, otherwise Chair has discretion in deciding which method of voting is used.

- Voice
- Division (Show-of-Hands or Standing)
- Ballot

After voice, any member can ask for a “division” or counted vote.

Chair takes affirmative vote, then negative vote, then announces the result



Some Finer Points

- Amendments
- Germaneness and the One Object Rule
- Deferring Action
  - Definite or Indefinite
  - Laying on the Table
- Reconsideration
- Point of Order
- Parliamentary Inquiry
- Adjourning

Amendments
"Perfecting the Motion"

- Effect or Objective: To modify a proposition, motion, or question from the form in which it was offered originally by adding (inserting) new language, deleting (striking) existing text or both. Substitution is a form of amendment.

  "I move that [specify the measure] be amended as follows [state your amendment]."

- If an amendment is seconded, hold discussion on the amendment
  - An amendment, once seconded, becomes the order or business, and is discussed until voted
- Can amend an amendment, but only once

- The motion is out of order if the content of the amendment is not germane.

Germaneness and the One Object Rule

Germaneness means the relevance or appropriateness of amendments or motions to the item under discussion.

No perfect test is available for determining when a proposed amendment or motion is germane.

A sample checklist to test germaneness may include the following.

- Does the amendment deal with a different topic or subject?
- Does the amendment unreasonably or unduly expand the subject?
- Would the amendment change the purpose, scope or object?

Defer Action

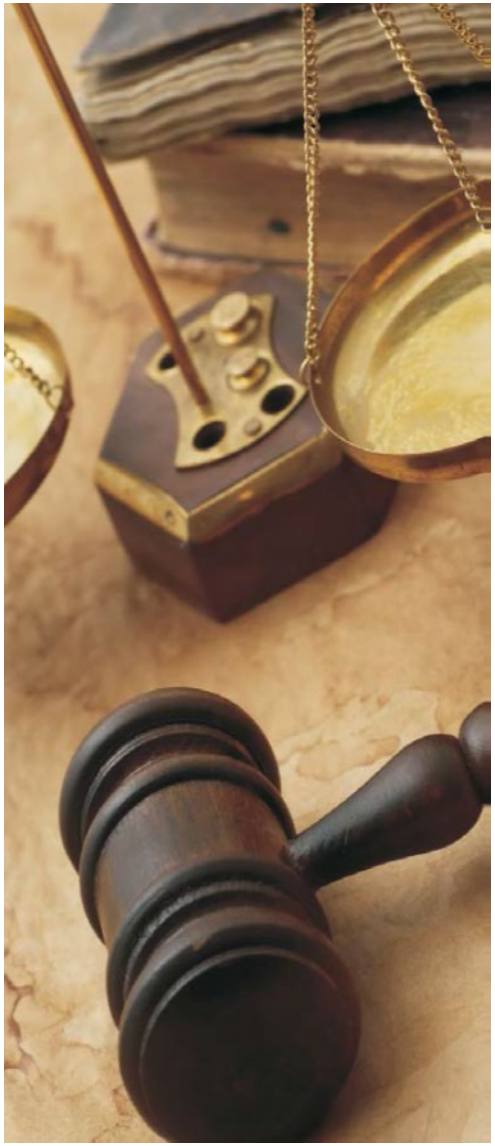
A motion to postpone is a request to lay aside the pending question either temporarily or permanently.

The request may defer deliberation of the pending question to a particular time, date or order of business.

A request to postpone that does not specify when the pending question is to be brought up again is known as indefinite postponement.

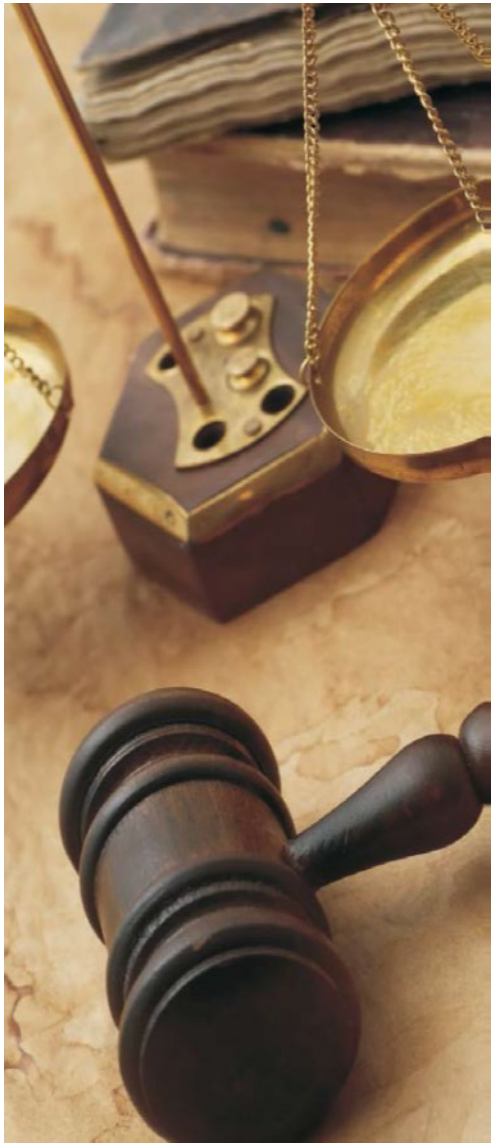
Lay on the Table

- Lay on the Table
  - Effect or Objective: To defer action temporarily on a particular question. The matter remains deferred until taken from the table, by way of a subsequent motion. Historically, the motion was used to place the item on the desk where it would be available for closer inspection by the members and until such time as the members were ready to proceed.
  - The request may delay deliberation of the pending question to a particular time, date or order of business.
  - If not removed from the Adjutant's desk, the matter remains there indefinitely.
  - The intent may be to "kill" the question and may be used in preference to a motion to pass by indefinitely since it is not debatable.



Reconsideration

- A motion to reconsider is a request to return to consideration of an action or vote that has been taken. For example, you may feel that another look at a measure is necessary because new facts have come to light or you found a mistake that needs to be fixed.
- Must be offered before adjourn of the next regularly scheduled meeting of the body, and provided the item in question is still in the bosom of the body
- Only someone who voted FOR the prevailing action can request reconsideration



Point of Order

- Request from a member for the body to follow proper rules of procedure or to bring to the attention of the body that its rules have been transgressed; the point of order must be raised when the issue is pending.
- No second required
- Not amendable
- Non debatable
- Can interrupt
- Chair decides

Point of Order

It is the duty of a presiding officer to maintain order and enforce the rules of the body. It also is the right of every member who observes a breach of order or a violation of a rule to insist upon enforcement.

A point of order is the parliamentary device used to require a deliberative body to observe its own rules and to follow established parliamentary procedure. The time to raise a point of order is critical. A point of order must be raised before the irregularity has passed or while the particular question is pending. It is too late to raise a point of order when the next item of business is taken up or when the measure has left the control of the body.

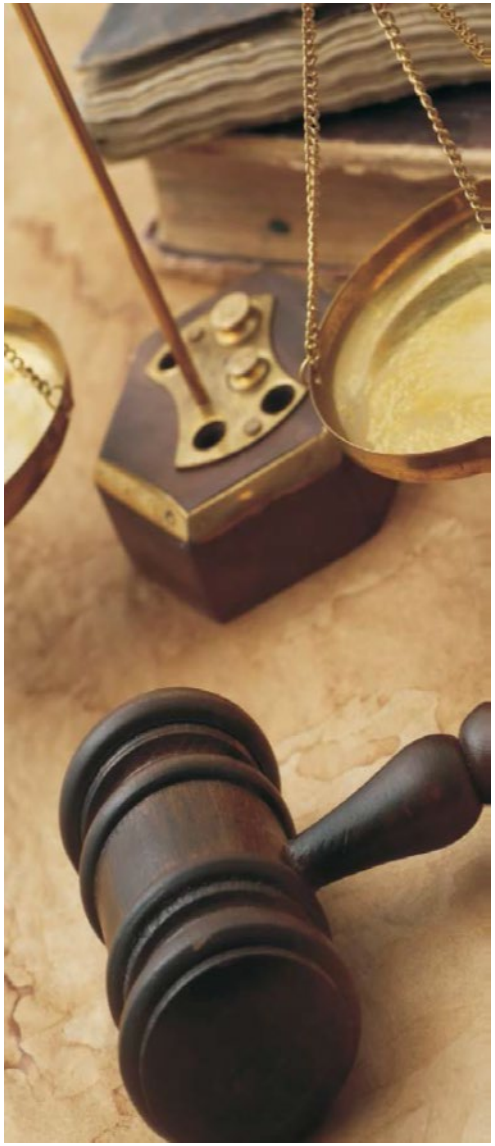
A “ruling” or “ruling of the chair” is a decision of the presiding officer concerning a point of order or a question about procedure.

Appealing a Ruling of the Chair

What is an appeal? It is the responsibility of the presiding officer to rule fairly and impartially on points of order. There may be occasions, however, when you do not agree with a ruling. An appeal is the proper method of taking exception to a ruling by a presiding officer. An appeal must be made promptly; it is too late to appeal once debate or other business occurs.

The essential steps to present and decide an appeal are:

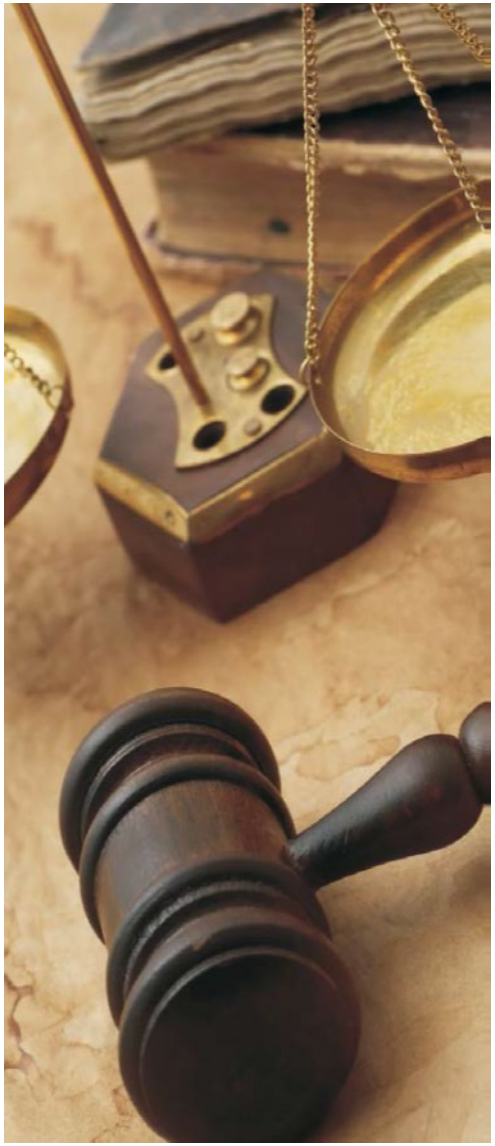
1. A member rises and addresses the presiding officer.
2. Without waiting for recognition, the member makes the appeal by stating, “I appeal from the decision” or “I appeal from the decision of the [chair].”
3. The chair restates the decision appealed from and may give reasons for the decision.
4. There is opportunity for debate.
5. The chair asks the body, “Shall the decision of the [presiding officer] be sustained?”
6. The question is put to a vote. Both affirmative and tie votes uphold the presiding officer’s ruling. A negative vote overturns the ruling.



Parliamentary Inquiry

- A parliamentary inquiry is a request for information from a member of the body to the presiding officer for information concerning the pending business, the body's rules and how they apply to the matter before the body, or to something a member may want to do.

- No second
- Non amendable
- Non debatable
- No vote required
- Can interrupt



Parliamentary Inquiry

The steps typically used to present a parliamentary inquiry are:

- A member stands and says to the presiding officer “Parliamentary inquiry, please.”
- The presiding officer asks the member to state the inquiry.
- The member presents the request for information.
- The presiding officer should answer inquiries pertinent to the business before the body in order to enable the member requesting information to understand what is happening, make a proper motion or raise a timely point of order. It is not the presiding officer’s duty to answer general questions about parliamentary law.

Adjourn

Motion to adjourn. A motion to adjourn is a request to close or end a meeting. After an adjournment, the body may reconvene at its next regularly scheduled time or upon the call of the chair (special meeting)

ANY
Questions?